



Dear Friends,

The criminal trial *U.S.A. v Peterson et al* took a fascinating turn just as this newsletter was ready for press. Prosecutor Larry Eastepp presented a long list of "unindicted co-conspirators" including Bennett Braun, M.D., Roberta Sachs, Ph.D., and Corydon Hammond, Ph.D. (See Legal Corner or [www.fmsfonline.org](http://www.fmsfonline.org) for background on this trial.) One possible significance of naming "unindicted co-conspirators" is that although they are not accused, they are considered part of the conspiracy and as such it may serve to qualify their statements into evidence. Another is that they may have made a deal for immunity.

This trial is opening up the full extent of the bizarre and harmful treatments to which vulnerable psychiatric patients have been subjected. Indeed, the very words *treatment* and *therapy* ought never be confused with the coercive mind-manipulation that is being exposed in the testimony.

Professional reaction to this prosecution is guarded. One psychiatrist framed the phenomenon as just one more in the harmful mistakes that have been made in medicine, such as frontal lobotomies. Most of the professionals with whom we have spoken, including those on our Advisory Board, expressed extreme discomfort with the fact that this is a criminal trial. The International Society for the Study of Dissociation issued a press release soon after the indictment expressing the fear that this trial will set a precedent that would allow people to criminalize a diagnosis with which they disagreed. Several professionals have stated that it does not seem right to bring a criminal charge against people who seem truly to *believe* in what they did. One psychologist mentioned that the defendants and the professional organizations that allowed these practices to reign unchecked are morally criminal, but he is not sure if they should be considered legally criminal.

Others, whose families have been destroyed, who have seen their children—productive members of society—end up on welfare to pay for their MPD/SRA therapy, see the trial in another light. They adhere to August Piper's words in the March 1998 issue, "Avoiding improper experiments on patients, and scrupulously attempting to ensure that patients

provide genuinely informed consent to medical procedures—these are the lessons the Nuremberg judges wanted to hand down to today's physicians." Just because a doctor holds a particular *belief* does not give that doctor the right to experiment on patients without telling the patient about the risks.

When looking at this trial, we need to be clear: this trial is *not* about criminalizing psychotherapy, it is *not* about criminalizing diagnoses, it is *not* about doctors who conscientiously attempt to treat patients, although defendants may try to deflect the issues in this way. This trial is about *fraud*. It is about professionals who are accused of using "mind-altering" techniques for their own purpose rather than for patients' well-being.

The defendants did not operate in a vacuum and the list of unindicted co-conspirators may be expected to document the wide and public dissemination of their beliefs and practices. Many of the professionals in this legal case and in others reported in this and past newsletters belonged to the International Society for the Study of Multiple Personality (ISSMPD), now the International Society for the Study of Dissociation. They presented papers about their beliefs and practices in multiple personality disorder and satanic ritual abuse at seminars and conferences and in journals. They made training videos. They honored each other. (See PBS Frontline documentary by Ofra Bikel, "Search for Satan" that aired on October 24, 1995.)[1] They held themselves out as experts.

Mary Shanley is a former patient at Spring Shadows Glen whose testimony figures in the *Peterson et al* trial. Judith Peterson, Bennett Braun, Roberta Sachs and Corydon Hammond were all involved in some way with her treat-

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ment. Following is what Mary said on Frontline:

Mary S.: They told me that I had already been programmed that if I divulged the secrets from the cult that I would self-destruct and that my programming had just been turned on at age 39.

Interviewer: How did they know that?

Mary S.: Because they were the experts. They—they were experts. They said, 'We've been studying this for 15 years. We've done research.' You know, 'We've-we've- this phenomenon is happening all over the world. We're the- we're the experts. We've written books. We've- we give lectures. People come to our hospital - other doctors come to our hospital and are trained by us because we are the experts.'

"Search for Satan," Frontline, October 24, 1995

Where were the professional organizations when this was going on? Where are they now?

*Pamela*

### **Please Let Go of the Defensiveness**

When my son first accused me of sexual abuse I thought I would die. It seemed inconceivable that the world would carry on around me, unheeding, while I carried the burden of this intense pain. And what of my son's pain? With the help of his psychiatrist he rewrote his entire childhood. All the love, support, respect and fun have been coated in a sinister gloss. Adverse but entirely normal childhood experiences have been redefined as malicious, unhealthy, evil events. The successful, talented, confident child and young man has been transformed, Kafka-like, into a "victim."

Please, psychiatrists, counsellors, therapists—try to let go of the defensiveness which prevents an honest look at the evidence of the creation of false memories of sexual abuse.

Excerpt from letter in *The Independent*  
April 19, 1998

American Psychiatric Association  
Steven Mirin, M.D., Executive Director  
1400 K Street NW,  
Washington, DC 20005

American Psychological Association  
Raymond Fowler, Ph.D., Chief Executive Officer  
750 1st St. NE,  
Washington, DC 20002

National Association of Social Workers  
Josephine Nieves, Ph.D., Executive Director  
750 1st St NE,  
Washington, DC 20002

We are very pleased to report that Allen Feld is now recovering at home from the serious accident he suffered on June 7 when hit by a car while bicycling.

Allen is a prolific contributor to this newsletter. He is Director of Continuing Education for the Foundation, a position he has held since retirement as a professor of social work.

Allen and Toby Feld thank the many people who have sent messages and cards.

### **Fund Drive Alert**

Charles Caviness and Lee Arning are now working on the Foundation's financial needs to be addressed in our annual fall fund drive. Please keep your eye out for their letter due in October and remember how vital your commitment is to the continuance of our important work.

### **special thanks**

We extend a very special "Thank you" to all of the people who help prepare the FMSF Newsletter. *Editorial Support:* Toby Feld, Allen Feld, Janet Fetkewicz, Howard Fishman, Peter Freyd. *Research:* Michele Gregg, Anita Lipton. *Notices and Production:* Ric Powell. *Columnists:* Katie Spanuella and members of the FMSF Scientific Advisory Board. *Letters and information:* Our Readers.

### **Interesting Observations**

"By the mid-1980s the idea was to sometimes liposuction people's memories out of their brains. It was a bad idea, bad therapy and I don't recommend it."

John Briere, Ph.D., *New Zealand Herald*, September 9, 1998

"You can create mental illness with very seductive advertising"

Walter Afield, M.D., Chief executive officer of Mental Health Programs in Tampa Florida, *U.S. Journal*, April, 1990

"Admissions to private treatment centers fell in 1989 for the first time, an indication that the field may be facing a difficult decade. According to the National Association of Addiction Treatment Providers, some metropolitan-area centers reported that census plummeted by as much as 50 percent, adding to an ongoing problem of keeping beds filled in recent years."

March, 1990

*U.S. Journal of Drug and Alcohol Dependence* 14 (3)  
Where have all the clients gone? by Stephen Rothman

Court documents show that one argument continues to be raised: "repression" and multiple personality disorder must be real because "Dissociative Amnesia" is in the *Diagnostic and Statistical Manual-IV* (DSM-IV) published by the American Psychiatric Association. There are, however, seven points—either statements in the book or in the description of its construction—that provide evidence that this argument cannot be supported.

1. The DSM-IV urges caution: The *Diagnostic and Statistical Manual* was not written for use in forensic settings.

"When the DSM-IV categories, criteria, and textual descriptions are employed for forensic purposes, there are significant risks that diagnostic information will be misused or misunderstood. These dangers arise because of the imperfect fit between the questions of ultimate concern to the law and the information contained in a clinical diagnosis." (page XXIII)

2. The DSM-IV mentions that there is considerable controversy: The DSM-IV states that there is no consensus on the issue.

"In recent years in the United States, there has been an increase in reported cases of Dissociative Amnesia that involves previously forgotten early childhood traumas. This increase has been subject to very different interpretations. Some believe that the greater awareness of the diagnosis among mental health professionals has resulted in the identification of cases that were previously undiagnosed. In contrast, others believe that the syndrome has been overdiagnosed in individuals who are highly suggestible." (page 479)

"There has been considerable controversy concerning amnesia related to reported physical or sexual abuse, particularly when abuse is alleged to

have occurred during early childhood." (page 480)

3. The DSM-IV notes that Dissociative amnesia cannot be distinguished from Malingering: (feigning symptoms for external gain)

"There are no tests or set of procedures that invariably distinguish Dissociative Amnesia from Malingering..." (page 480)

4. The DSM-IV states that there is a need for external corroboration:

"There is currently no method for establishing with certainty the accuracy of such retrieved memories in the absence of corroborative evidence." (page 481)

5. The DSM-IV was published in 1993. Many significant clinical and research articles have since been published:

"New knowledge generated by research or clinical experience will undoubtedly lead to an increased understanding of the disorders included in DSM-IV, to the identification of new disorders, and to the removal of some disorders in future classifications. The text and criteria sets included in the DSM-IV will require reconsideration in light of evolving new information." (page XXIII)

6. The DSM-IV was developed by committee, not from scientific evidence:

"It must be noted that DSM-IV reflects a consensus about the classification and diagnosis of mental disorders derived at the time of its initial publication." (page XXIII)

7. The DSM-IV will continue to include some diagnoses based more on current social interests than on scientifically derived and validated principles. Several books discuss this issue, including, *They Say You're Crazy* by Paula Caplan and *The Selling of DSM: The Rhetoric of Science in Psychiatry* by Stuart A. Kirk and Herb Kutchins.



### A Lesson from History

"The witch-craze of the 16th and 17th centuries made clear that validation means something much more than proposing ways—even consistent ways—to make the diagnosis even of something that does not exist. That is, the witch hunters received explicit and operational ways of identifying witches. They taught each other and wrote their procedures in a large and influential book. This book, entitled *Malleus Maleficarum* or the *Hammer of Witches*, spelled out in exquisite detail the kinds of behaviors that characterize the witch and identify the evidence on her body of congress with devils, incubi and succubi. The *Malleus* had as its epigraph: *Haereticus est maxima opera maleficarum non credens* (to disbelieve in witchcraft is the greatest of heresies).

"What was learned from this that might illuminate practices with repressed memories? The fact that there is a manual telling how to recognize the manifestations of repressed memories does not confirm them. It is an exercise in creating a consistent approach to the diagnosis amongst therapists—a uniformity of diagnostic practice—and does not validate the presumed abusive experience...

"The issue for repressed memories is validation—and validation in every case when it appears...To treat for repressed memories without any effort at external validation is malpractice pure and simple; malpractice on the basis of standards of care that have developed out of the history of psychiatric service—as with witches—and malpractice because a misdirection of therapy will injure the patient and the family.

Paul McHugh, M.D. Chief of Psychiatry,  
Johns Hopkins Hospital  
Paper presented at Memory and Reality  
Conference, April 1993



**BUT IT'S IN THE DSM-IV**  
(part 3) FMSF Staff

**Professional Skepticism of Multiple Personality Disorder**

Cormier, J.D. and Thelan, M.H.  
*Professional Psychology: Research and Practice*, 1998, Vol 29, No 2, 163-167.

The authors in 1994 randomly selected 1,000 doctoral level clinicians from members of the American Psychological Association and mailed them a cover letter, questionnaire, and a self-addressed stamped envelope. They received 425 responses (43%) and no follow-up mailing was reported. Participants were presented with criteria for MPD as defined in the DSM-IV and then answered 16 questions on a five-point scale that reflected their beliefs about MPD, their skepticism, and their familiarity with the MPD literature. The authors concluded that the majority of psychologists believed MPD to be a valid but rare clinical diagnosis. They note that "clinicians should not hesitate to assess dissociative symptomatology out of concern that it might be feigned." (p. 166)

There are a number of concerns raised by this report. Most significant is the 43% response rate. The authors do not mention that such a low rate introduces the problem of selection bias: people who are passionate about MPD may have been more likely to return the questionnaire than those who are not interested in the topic.

Another concern pertains to the content of the cover letter that was mailed to participants along with the questionnaire. Did it disguise any bias? Was it personally signed?

This is relevant because the authors reveal their bias when they state that "the onset of MPD is often related to extreme abuse that is perpetrated on females by male caretakers." (p.166) There is no scientific evidence that this assertion is valid. The authors also assume that "numerous, nationwide, and consistent" ( p.163)

clinical reports are sufficient to consider MPD a valid diagnostic category, but we should have learned from the witchcraft trials of the Middle Ages that this is not sufficient evidence.

Finally, even with all the methodological issues raised, the results of this study indicate that more than half, 54%, of the participants expressed at least some skepticism about MPD.

**TO BE CONTINUED**

**PINNING JELL-O TO THE WALL**

Paula Tyrofer and Pamela Freyd

"Because exactly what is meant by the terms *repression* and *dissociation* is far from clear, their use has become idiosyncratic, metaphoric, and arbitrary." FMSF Scientific and Professional Advisory Board, 5/17/98

Once upon a time, there was forgetting and there was remembering. Events were forgotten and later recalled, or they disappeared from memory for good. In the 80s, a new mental process was postulated: repression and recovery of very traumatic events. While in the good old days, everybody understood what forgetting and remembering meant, a lot of confusion still exists around the concept of "repression" and "recovery." To make matters worse, a slew of additional new terms emerged. Below is a sampling of terms, old and new:

**Body memories** — A term made popular by Bessel van der Kolk postulating that although the mind may not have a memory of an event, "the body keeps the score." Harvard Review of Psychiatry, 1994, 253-265.

**Delayed memories** — Harvey and Herman, 1994, Consciousness and Cognition, 3, 295-306.

**Decades delayed disclosures** — Champion, December 1991, "Decade delayed disclosure of memories of years gone by."

**Discovered memories** — Schooler J. W., 1997, in Read and Lindsay (Eds.), Recollection of Trauma.

**Emotional memories** — Kristiansen, C., May, 1996, paper presented at "Beyond the Controversy" conference in Peterborough, Ontario.

**Excavated memories** — Kihlstrom, J.F. (1996) in Pezdek and Banks (Eds.) The recovered memory-false memory debate.

**Exhumed memories** — Believed to be first used in 1993 by P. Butterweiser in his review of MacLean's Once Upon a Time.

**Fragmented memories** — Kristiansen, C., May, 1996, paper presented at "Beyond the Controversy" conference in Peterborough, Ontario.

**Hypnotically-refreshed memories** — Frequently used by recovered memory therapy proponents to convey the false message that hypnosis increases the accuracy of memories.

**Memory work** — Euphemism for recovered memory therapy

**Recovered memory** — The first reference to this term as a synonym for repressed memory that we found was in the Chicago Tribune, November 10, 1990. "...the validity of a recovered memory, the crux of the state's case."

**Recovered memory experience** — Lindsay, FMSF Newsletter April, 1997.

**Regained memory** — Orlando Sentinel Tribune, April 14, 1991, B. Stewart.

**Reinstated memories** — Used by Shimamura, 1997, in Read and Lindsay (Eds.), Recollection of Trauma.

**Re-remembered memories** — Daily Mail, June 3, 1993.

**Revived repressed memory** — LRP Publications, Vol. 5. No 4 The Testifying Expert, April 1997.

**Sensory memories** — Kristiansen, C., May, 1996, paper presented at "Beyond the Controversy" conference in Peterborough, Ontario.

**Traumatic memories** — A term popularized by Charles Whitfield in Memory and Abuse, 1993.

**Psychogenic amnesia** — A term used in the DSM-III to refer to memory loss due to psychological reasons.

**Dissociative amnesia** — A term used in the DSM IV to replace "psychogenic amnesia."

**False forgetting** — A term defined as the inability to recall what actually occurred, in Ryle, A., 1998, British Journal of Psychiatry 173.

**Massive repression** — According to Webster in Why Freud Was Wrong, p 519, this term was first used by Judith Herman in a speech made to the American Psychiatric Association in 1985.

**Robust repression** — Introduced by Ofshe & Singer, October 1994, International Journal of Clinical and Experimental Hypnosis.

**Semi-repressed memories** — May 1, 1998, The Irish Times. "The example given is an extreme of very bad practice, and would not conform to the methods of most psychotherapists, who would tread very carefully around memory, whether recalled, semi-repressed or fully repressed."

**Traumatic amnesia** — An often misused term. It refers to amnesia caused by physical trauma such as head injury.

Some of these terms are well-established ways to discuss concepts not clearly defined. Others are amusing and attest to the inventiveness of the author. By employing the term "memory" many of these labels may be semantically misleading. They mistakenly imply that the existence of an actual event has been verified as the object of memory. Such terms when used as clever semantic ploys in serious scientific debate are like pinning Jell-O to the wall. They just won't stick.



"Minds are like parachutes. They only function when they are open."

Attributed to James DeWar

B O O K

— R E V I E W —

## TELL ME YOUR DREAMS

by Sidney Sheldon

Reviewer: FMSF Staff

Sidney Sheldon has sold more than 275 million novels worldwide and the *Guinness Book of Records* lists him as the "Most Translated Author in the World." Among his awards are an Oscar, a Tony and an Edgar.

It is a pity that in Sheldon's latest novel, "Tell Me Your Dreams" (with a million-copy first printing, Morrow, \$26) he would have the reader believe that different personalities can inhabit the same body. Indeed, he has his chief (fictional) MPD expert say just that: "It is a condition where there are several completely different personalities in one body." (p149)

The book makes the case that the personalities are so completely different that one of the personalities can be a serial murderer while the others remain perfectly innocent. The plot centers around the incompetence of a young lawyer in his attempt to convince a judge and jury that MPD is real and that his client is one of the innocent personalities (it is never explained why the serial murderer is not equally his client). He fails miserably in this task but a *deus ex machina* appears in the form of a 16mm film he has made of his client transforming into the murderer. (It is never explained why he didn't use video tape.) The judge instantly becomes a true believer in MPD. Even though the jury had found the client guilty, the judge effectively declares her innocent. (It is never explained how the judge exonerates the personality that actually committed the murders.)

Apparently if you're Sidney Sheldon your publisher can't do much in the way of editing. Hence none of Sheldon's brilliant experts on MPD suspect that the murderer's father abused her as a child. (After a year or

so of therapy, one of the alternate personalities announces this as fact. It is never explained why this should be believed unlike all the other things that personality announces.) We are told that "The most famous case of multiple personality disorder was Bridey Murphy. That's what first brought the subject to the public's attention. Since then, there have been an endless number of cases, but none as spectacular or as well publicized." (p150.) Bridey Murphy was a famous past-life case in the mid 50s that was certainly a case of dissociation but no one other than Sheldon has ever claimed it is an MPD case. (See Donald S. Connery's account in the *FMSF Newsletter*, Nov 3, 1993. The *San Francisco Examiner* referred to Bridey Murphy as "an early and impressive example of false memory syndrome." See the *FMSF Newsletter*, Sept 1, 1995.)

*Tell Me Your Dreams* is a bad novel. To quote *Publishers Weekly*: "Despite gory crime scene depictions, the old master, uncharacteristically, has left out the suspense and the layers of feeling....A prefatory sentence says the novel is based on real cases. Maybe so, but one wishes that the authentic details had been told with genuine passion."

Before closing we must note one delightful feature of the book. On page 191 the hero-lawyer (yes, for all his incompetence, he's the protagonist of the book) selects the jurors according to their gullibility for the paranormal. In order to choose jurors likely to believe in MPD, he rejects one who says "You mean that UFO stuff? I don't believe in all that nonsense." He accepts the next candidate because he watches *The "X-files,"* "Sabrina The Teenage Witch," and reads only Anne Rice and Stephen King. Then he rejects one who watches, "Sixty Minutes, the News Hour with Jim Lehrer, documentaries" and reads, "Mainly history and political books." Sidney Sheldon certainly does know one thing: how to choose those likely to believe in MPD.

**Additional comment:** Sidney Sheldon recommends some books at the end of his novel and at the top of the list is a 6-by-4-inch pamphlet by David Calof entitled "Multiple Personality and Dissociation," (Parkside Publishing, 1993). It's a fascinating document. Just one example: to answer to the question "Why do you encourage your clients to cut off from their families early on?" Calof replies:

Because you can't fight the family hypnosis. I can give you anecdote after anecdote about this. I remember one woman in her late thirties. She had worked with me for five or six years. She had agreed to distance herself from her abusive parents, which had given her an operating field to explore her traumatic past. She was finally beginning to accept the reality of the horrendous, tortuous, child abuse she had endured. One day she came to her session and said she had decided to confront her parents. "I'm going to go confront my folks about this. I think I'm ready to do that. I want them to know I know." I told her I didn't think she was ready and asked her to consider putting it off for a few months at least. I thought she was being overly optimistic about it. She said she would think about it. That night, she went to her parents' apartment for dinner without telling me. The following week she started her next session saying, "David, you know that abuse stuff you've been talking about?" I said, "Yes." She said, "Why do you keep talking to me about stuff like that? My parents are wonderful, they could never have hurt

me like that." Although she got back on track eventually, this one contact sidetracked the therapy for several months. Worse, the alters who knew the truth were so enraged at her, they started cutting [self-mutilating] on her regularly for several weeks.

Who is David Calof? He claims that the Foundation picks on him. Three years ago we wrote that he had no known credentials. He objected to that and asked us to list his credentials as an RMHC (Registered Mental Health Counselor) in the State of Washington, a Visiting Faculty Member of the San Francisco Family Institute, and a Senior Consultant, Psychology Training Center, Seattle Mental Health Institute. (No, he does not hold a degree, not even a bachelors.)

What are the credentials? Chuck Noah, also of Seattle, is a retired construction worker who recently applied for and received an RMHC credential. Like the other 13,000 people who have been given RMHC credentials by the State of Washington, it cost him \$78.50 and he was required to take a 4-hour AIDS course. As for the San Francisco Family Institute, repeated attempts to verify the credential succeeded only in reaching an answering machine that said "Your call can not be answered at this time. Please try again later. Good by." And the Seattle Mental Health Institute reported that Mr. Calof had not been connected with them "for many years."



#### CONTINUING EDUCATION WATCH

A brochure for a September conference in Oregon sponsored by the Transformation Training Network and the Traumatic Incident Reduction Association crossed our desk last month. The title of one session seemed apt: "Generous serving of alphabet soup: EMDR, TIR, TFT, EFT, NLP, BSFF, TAT, HBLU, ETC." In this session participants can learn about the

techniques these letters represent and they can also learn a "complementary method of handling environmental toxins using 'resonance tuning.'"

The meaning of some of these terms?

**TIR** ("Traumatic Incident Reduction) "although it has been characterized as one of the 'Power Therapies', it is not an approach that directly addresses the bio-energetic field."

**EFT** (Emotional Freedom Technique) "is a streamlined and widely adaptable energy field method based on principles of meridian tapping, left-right brain balancing and 'psychological reversal.'"

**BSFF** (Be Set Free Fast) We read that the leader of this group will also demonstrate his 'Precision Diagnosis' techniques for muscle testing with clients or as a surrogate, plus a highly efficient method for instilling new programming into the subconscious mind."

Sponsors are approved to grant continuing education credit by the American Psychological Association.

**CE Update:** In the last issue we wrote about a seminar given by intuitive Caroline Myss for which APA approved credits were available. Ms. Myss, you may be interested to learn, has received "Oprah approval." Oprah devoted a whole program to her in September.

On the Oprah web site we read: "Caroline is not a gifted physician, but a medical intuitive who uses only a patient's name and age ... to diagnose with 93% accuracy."

#### Middlegrounder

**Skeptic:** The emperor has no clothes.  
**Believer:** The emperor has beautiful new clothes.

**Middlegrounder:** The emperor has no clothes but he is wearing underwear.

Harold Merskey, M.D., July, 1998

#### Repressed Memories in Media

**Touched by an Angel:** "On one occasion, the angel Monica goes so far as to help a young woman recover a repressed memory of abuse at the hands of her father. "There's a cycle of abuse in this house," the angel sighs. "It's been in this house for years. Now, tell me about the closet..."

Ruth Shalit, *The New Republic*, 7/20/98

FMSF Staff

# **Criminal Trial Against Therapists Begins in Texas**

United States of America v. Peterson, et al., U.S. Dist. Ct., Southern Dist., Texas, No. H-97-237<sup>(1)</sup>

The nation's first criminal trial arising from allegations that psychotherapists implanted false memories in patients began September 9 in the court of U.S. District Judge Ewing Werlein, Jr. During the trial, which is expected to last about two months, testimony will be presented that five former workers of Spring Shadows Glen Hospital<sup>(2)</sup> in Houston collected fraudulent insurance payments by convincing patients that they had been abused in satanic rituals.

A 60-count indictment accuses the defendants of using hypnosis, drugs, isolation, and unnecessary restraints while convincing patients that their mental illness resulted from abuse earlier in their lives. The defendants are also accused of threatening other hospital employees' jobs in order to coerce them to create or change medical records. These charges are linked to charges that the defendants attempted to bilk insurance companies for the treatment of patients diagnosed with MPD and other ailments stemming from "memories" the therapists themselves implanted. On trial are psychologist Judith Peterson, psychiatrists Richard Seward and Gloria Keraga, therapist Sylvia Davis, and former hospital administrator George Jerry Mueck.

During his opening statement to jurors, Assistant U.S. Attorney Larry Eastepp played a tape of the screams of one of the defendants' teenaged patients. Prosecutor Eastepp said the recording was made during therapy and figured in a conspiracy to contrive or exaggerate diagnoses of multiple personality disorder (MPD) in patients with large or unlimited insurance policies. "The wails and screams had nothing to do with the patients' health, but about these defendants' wealth," Eastepp said.

Prosecutors maintain the defendants practiced white collar theft in the guise of psychotherapy. They presented evidence that one of the defendants used cashier's checks made out to the insurance company to pay a few hundred dollars in premiums after their patients' insurance coverage was to be discontinued. This allowed the hospital to continue treating the patients for several months more and collect additional insurance payments.

In opening statements for the defense, attorneys said their clients provided appropriate psychiatric care for the symptoms they had diagnosed. They contend the trial is an attempt by federal prosecutors to criminalize diagnoses they disagree with.

<sup>1</sup> This report is taken from two articles by Mark Smith which appeared in the

*Houston Chronicle*, "5 mental health workers allegedly planted tales of torture to scam insurance money," (9/9/98) and "Insurance documents fill opening testimony; Five on trial in 'recovered memories' case," (9/10/98). See also FMSF Brief Bank #176 and FMSF Newsletter December 1997. Or, for the latest trial developments, check the website: <http://www.fmsfonline.org>

2 Spring Shadows Glen is now under different ownership and is called Memorial Spring Shadows Glen. The hospital's dissociative disorders unit was closed in March 1993 after state investigators cited the unit for excessive use of physical restraints on patients, and, in one case, making a patient's discharge contingent upon safety from a "satanic cult." Approximately 50 specialized facilities similar to the one at Spring Shadows Glen existed during the early 1990s, providing care for patients with MPD. That number has dwindled to fewer than 25 during the last few years.

## **Courts Find Repressed Memory Testimony Inadmissible**

This month we report two more trial courts that ruled following evidentiary hearings that the notion of repressed memory is not generally accepted as reliable or valid within the scientific community. Significantly, these and a growing number of similar rulings come after a trial judge has

### **Trial court rulings have followed evidentiary hearings:**

- Barrett v. Hyldburg, Superior Ct., Buncombe Co., NC, No. 94-CVS-793, oral decision May 20, 1998 following Barrett v. Hyldburg, 1997 WL 43876 (N.C., 1997).
- Carlson v. Humenansky, 2nd Dist., Ramsey Co., Minn., No. CX-93-7260, Dec. 29, 1995.
- Doe v. Maskell, Circuit Ct., Baltimore City, MD, No. 9423601/CL18756, May 5, 1995, aff'd Doe v. Maskell, 679 A.2d 1087 (Md., 1996), cert denied 117 S.Ct. 770 (1997).
- Engstrom v. Engstrom, Superior Ct., Los Angeles Co., Calif., No. VC016157, Oct. 11, 1995, aff'd Engstrom v. Engstrom, No. B098146 (Cal.App.2nd App. Dist., June 18, 1997) unpublished.
- Logerquist v. Danforth, Superior Ct., Maricopa Co., Arizona, No. CV 92-16309, June 11, 1998 following Logerquist v. Danforth, 932 P.2d 281 (Ariz.App., 1996).
- Mensch v. Pollard, Superior Ct., Whatcom Co., Washington, No. 93-2-01427-5, oral decision dated Sept. 9, 1998.
- Shahzade v. Gregory U.S. Dist. Ct., Massachusetts, No. 92-12139-EFH.
- State of New Hampshire v. Hungerford, 1995 WL 378571 (N.H.Super., May 23, 1995), aff'd State v. Hungerford, 1997 WL 358620 (N.H., 1997).
- State of New Hampshire v. Walters, Superior Ct., Hillsborough, New Hampshire, No. 93-S-2111, -2112 reversed by State of New Hampshire v. Walters, 1997 WL 937024 (N.H., 1997).

The trial decisions, filings, and transcripts of expert testimony presented during evidentiary hearings for most of these cases are available from the FMSF.



carefully reviewed extensive expert testimony, research studies, and published articles presented from both parties on the subject of the reliability of repressed memory. In each of these cases, the trial judge, following a motion to exclude repressed memory evidence, took on the role of gatekeeper. That is, the judge may "close the door" to testimony based on unreliable scientific theory or techniques which might mislead a jury if it were heard in court. The trial judge has this authority based primarily on two U.S. Supreme Court decisions: Frye and Daubert.

Once a trial judge rules that the theory of repressed memory is unreliable or that it has not been accepted by the scientific community, the judge may rule that any testimony derived from that unreliable foundation cannot itself be reliable enough to be admitted at trial. If no other evidence of wrongdoing is presented, the suit may then be dismissed.



### **Washington Court Finds Expert Repressed Memory Testimony Inadmissible**

Mensch v. Pollard, Superior Ct., Whatcom Co., Washington, No. 93-2-01427-5, oral decision dated Sept. 9, 1998.<sup>13</sup>

Following a Frye<sup>14</sup> evidentiary hearing, a Washington trial court recently held that neither "the subject of dissociative amnesia or similar phenomena," nor "the methods by which memories are recovered" is generally accepted within the scientific community. Therefore, the court found expert testimony in support of the validity of recovered memories is not to be permitted at trial. The court did not preclude testimony from the lay witness based on her "repressed memories." However, the court did hold that if a trial court were found to have the authority under Washington law to serve as gatekeeper for the lay testimony as well, that the repressed memory testimony of that lay witness is also judged to be inadmissible.

The court noted the "great debate" within the relevant scientific community as to the reliability of a related memory following a claim of amnesia. The court interpreted expert testimony at the hearing<sup>15</sup> as agreeing that it is generally accepted that there are cases where individuals can suffer from what has been termed dissociative amnesia. However, the court noted that the facts of this case involved a "much more extensive claim of amnesia." Plaintiffs claim numerous and repeated events over a course of many years and claim that each and every event was eliminated from their memory only to be restored at a later time. It was this concept, the court found, that was not accepted within the relevant scientific community.

In addition, the court found that there is no reliable method or technique available to permit an expert opinion on "whether or not the related event is the product of a true and accurate memory." It is of note that after hearing the

opinion of plaintiffs' expert John Yuille, the court concluded that Statement Validity Analysis (SVA) "is not generally accepted within the relevant scientific community as being a valid method by which an expert could be entitled to render an opinion as to the credibility of a witness." In fact, the court noted, "plaintiffs' expert has previously testified that the subject of SVA is not scientifically valid or accepted within the relevant scientific community." The court therefore ordered that plaintiffs not be permitted to utilize expert testimony on the subject of SVA.

The ruling is intended to exclude only opinions by experts that a restored repressed memory is valid, that the methods of recovering memory are valid, and that SVA is a valid method to determine the credibility of a lay witness. As mentioned above, the court held that the lay testimony based on repressed memories was unreliable as a matter of law. However, the court stopped short of ordering the lay testimony excluded. The court's reluctance to exclude the lay testimony seemed to be based on several considerations: whether the plaintiff recovered memories of sexual abuse as part of therapy sessions (and therefore could be excluded following State v. Hungerford) or under hypnotic-like techniques (and therefore could be excluded under State v. Martin, 684 P.2d 651 (1984)). While the court held that the repressed memory basis of the lay testimony was unreliable, the court was also concerned that a ruling excluding the lay testimony would be, in effect, a ruling on credibility. Whether a lay witness is credible (i.e., believable) is generally a matter for a jury to determine.

A petition for reconsideration to the trial court or a certified question to the Washington Supreme Court may be submitted on the limited issue of whether the lay witness can testify and specifically on whether the trial judge has the authority to preclude the lay witness from testifying under these circumstances. Defendant is represented by Sverre Staurset of Tacoma, Washington.

<sup>3</sup> See FMSF Brief Bank #207 for ruling.

<sup>4</sup> Frye v. United States, 293 F.2d 1013 (D.C. Cir 1923). The purpose of a Frye evidentiary hearing is to determine whether the scientific principles advanced and used as a basis for trial testimony are generally accepted in the relevant scientific community. The court found that the relevant scientific community in this case is "the field of psychology dealing in the subspecialty of memory."

<sup>5</sup> Testimony was heard from Elizabeth Loftus, Ph.D. and Rex Frank, Ph.D. for the defense and from John Yuille, Ph.D. for the plaintiff.

**"There is no acceptance within the applicable scientific community that there is any method or technique available to permit an expert opinion on whether or not the related event is the product of a true and accurate memory, a firmly held belief by the relater that the event is true but in fact false, or whether the related event is false and known by the relater to be false — that is, a conscious lie."**

**Ruling following Frye hearing, Mensch v. Pollard.**



## North Carolina Trial Court Holds Repressed Memory Testimony Inadmissible

Barrett v. Hyldburg, Superior Ct., Buncombe Co., North Carolina, No. 94-CVS-793, oral decision dated May 20, 1998.

In May 1998, North Carolina Superior Court Judge Stanford L. Steelman, Jr. granted a defense motion to exclude evidence regarding plaintiff's alleged "repressed memories" of sexual abuse. In an oral ruling (a written order is expected soon), the court found that while the theory of repressed memory is subject to being tested, and has in fact been tested, there have been no conclusive scientifically valid studies to support the theory.<sup>7</sup> In addition, the court concluded that there is no general acceptance in the relevant scientific community on the theory.

Prior to making its ruling and prior to impaneling the jury, the court heard testimony from Dr. Charles Whitfield and Dr. John Alexander Bodkin. It concluded after hearing this testimony and reviewing several published articles, relevant portions of the *DSM-IV*, and statements of various organizations, that "there is currently no method for establishing with certainty the accuracy of retrieved memories in the absence of corroborative evidence." The court noted that even Dr. Whitfield testified that the only available corroboration for such retrieved memories is "internal." Therefore, the court concluded, even if retrieved memories exist, without verification they are not valid in a court of law.

This case was filed early in 1994 by a 45-year-old woman who claimed she first recovered memories of early childhood incidents approximately 40 years after they allegedly occurred. In 1996, Superior Court Judge Ronald Bogle granted defendant's motion in limine to exclude all evidence regarding plaintiff's alleged "repressed memories" of sexual abuse. On appeal, in August 1997, a North Carolina Court of Appeals<sup>8</sup> affirmed the portion of the trial court's ruling that held that plaintiff's testimony regarding recovered memories of abuse may not be received at trial absent accompanying expert testimony on the phenomenon of memory repression. The court explained, quoting from State v. Hungerford, "The very concept of a 'repressed memory'...transcends human experience...To argue that a jury could consider such a phenomenon, evaluate it and draw conclusions as to its accuracy or credibility, without the aid of expert testimony, is disingenuous to say the least." The Court of Appeals remanded the case to the trial court for further proceedings and a final judgment before the Court of Appeals would reconsider the issue.

Therefore, immediately following the Superior Court's most recent ruling regarding the lack of reliability of the theory of repression, the jury was brought into the courtroom for approximately 20 minutes. They heard the plaintiff state her name but heard no other testimony. The

defense immediately objected to her testimony under Daubert, specifically on the grounds that any evidence of repressed memory is scientifically unreliable and has not gained general acceptance in the relevant scientific community. The court then granted a motion for directed verdict in the defendant's favor.

Defense attorneys are John C. Cloninger and Robert Riddle of Asheville, North Carolina.

7 This ruling followed the standards for review set forth by the U.S. Supreme Court in Daubert v. Merrell Dow Pharmaceuticals, Inc., 113 S.Ct. 2786 (1993). Under this ruling, the trial judge is to act as a gatekeeper to ensure that scientific theories that are not valid or reliable are not presented to juries.

8 Barrett v. Hyldburg, 1997 WL 434876 (N.C., 1997)

## Ontario Health Professions Board Orders Repressed Memory Therapy Complaint be Reinvestigated

Review of Complaint against Elizabeth A. Galloway, M.D., Health Professions Board, Ontario, File No. 4659. <sup>9</sup>

In August 1998, the Ontario Health Professions Board ordered the College of Physicians and Surgeons of Ontario (the College) to conduct additional investigation into a complaint filed by the parents of a patient of physician Elizabeth Galloway. The Complaint, originally filed in 1996, stated that Dr. Galloway violated several principles of the Canadian Medical Association when she misdiagnosed her patient on the basis of supposed "recovered memories" of sexual and physical abuse. That misdiagnosis, the Complaint continued, led to improper treatment and to severe deterioration of the health of the Complainants' daughter, so that their daughter became depressed and suicidal. In issuing its decision, the Board voiced its concern that, given the patient's attempt at suicide, her life may be at risk because of the psychiatric treatment.

The Ontario Board found the investigation by the College to be an inadequate response to the Complaint. The Board acknowledged that "there is some tension between the need to protect the confidentiality of patient information, and the protection of the public in a self-regulating environment." However, the Board emphasized that it is necessary "to ensure that confidentiality is not used as a mechanism to shield inappropriate conduct from legitimate investigations."

Specifically, the Board found the College had not attempted to contact the patient to request information regarding the substance of the complaint. Nor did the College consider any of the documents produced by the Complainants or contact family members for information relevant to the complaint. The College was ordered to reopen its investigation and rectify these earlier deficiencies.

9 See FMSF Brief Bank #208.

**Washington State Psychiatric Malpractice Suit Settles**  
*Avis v. Laughlin*, Superior Ct., King Co., Washington, No. 97-2-02813-3 KNT.<sup>(10)</sup>

Robin Avis, a former patient of physician's assistant John Laughlin, recently settled her malpractice suit against Laughlin under confidential terms. The former patient had sued Laughlin for altering her memories and coercing her into believing she was the lifelong victim of an "intergenerational satanic cult" that had physically and sexually abused her. The plaintiff was represented by attorney Michael Bolasina of Seattle and attorney/psychologist R. Christopher Barden of Salt Lake City.

Court records showed that defendant Laughlin had attended a study group in the area of "traumatology" conducted by David Calof. In a deposition on 2/2/98, Dr. Barden asked about Calof's writings and communication regarding the use of hypnosis and treatment and diagnosis of supposed MPD and ritual abuse. At that time, Calof stated that any information concerning satanic cult abuse of children which he conveyed to the study group was based on information given him by police jurisdictions or anecdotal reports (T.30); however, Calof acknowledged that he was not aware of any criminal cases in the Pacific Northwest in which anyone had ever been convicted of satanic cult abuse. (T.17) Calof also testified that he had not read any research in which investigators tried to ascertain whether allegations of satanic cult abuse could be corroborated. Nor had he seen any reports from any national commissions or associations on child abuse and neglect as to whether allegations of satanic cult mistreatment appear to be accurate or not. (T.108-109). Calof also admitted that he had never received a graduate or medical degree of any kind and, in fact, his highest degree of academic training was a high school diploma. (T.29).

10 See press release from R. Christopher Barden, 9/14/98. See also, FMSF Newsletter, Dec. 1997 and Barker, K. "Lawsuit claims false memories," *The Spokesman-Review* (Spokane, WA) 11/2/97.

**Second License Suspension of Washington State  
Counselor for Unprofessional Conduct**

In the Matter of John W. Laughlin, State of Washington,  
Department of Health, Counselor Programs, Docket No. 98-01-B-1026MH.<sup>(11)</sup>

In January 1998, the Washington State Counselor Programs (the State) charged John Laughlin with violation of Washington Codes governing professional conduct. Following an investigation, the State found that Laughlin inappropriately used hypnosis on a patient he believed had a history of sexual abuse and satanic ritual abuse involvement; spent a great deal of time in therapy sessions attempting to break through what he described as "victim denial" by the patient; and even offered to perform an exorcism on

his patient because he believed cult members had programmed evil into her. When the patient wanted to terminate therapy, Laughlin told her that she would be in great danger if she did so. Subsequent therapy by other health care providers, the State noted, cast doubts on Laughlin's treatment and the reliability of the information obtained from the patient by means of hypnosis.

On June 30, the State ordered and Laughlin agreed to a seven-year suspension of Laughlin's certification to practice counseling in the State of Washington. However, the suspension is stayed provided Laughlin pays a fine, practices under the supervision of an approved licensed mental health professional, completes required continuing education courses, practices within the conditions of his current Medical Quality Assurance Commission practice plan, and does not utilize clinical hypnosis in his practice.

Laughlin had previously been investigated by the Washington State Department of Health Medical Quality Assurance Commission. In December 1997, that Commission suspended Laughlin's license to practice for 8 years. That suspension was also stayed.

Laughlin has settled two malpractice claims related to the development of false memories. One of those suits is reported in this newsletter.

11 See FMSF Brief Bank #142 and FMSF Newsletter March 1998.

**Federal Court Rules No Immunity for Prosecutors' Actions**

*Richards v. City of New York*, 97 Civ. 7990 MBM (U.S. Dist., 9/3/98)

A woman who claims that several Brooklyn assistant district attorneys helped coerce her young daughters into falsely stating that they had seen her kill a man living in the family's apartment can proceed with a civil rights suit against the prosecutors, a federal judge has ruled. In September, a District Court judge held that eight of the nine prosecutors sued were not entitled to either absolute or qualified immunity for their actions.

The civil rights claim against the prosecutors was brought by a woman who had been tried for murder. She was exonerated when it came to light at trial that her 4 and 5-year-old daughters had not seen someone killed by their mother and that their earlier false statements allegedly had been prompted by detectives.

While conceding that prosecutors have an absolute immunity with regard to functions "intimately associated" with the judicial phase of criminal proceedings, the judge found that prosecutors "do not have absolute immunity for every action taken in their official capacity." When a prosecutor "performs functions normally associated with a police investigation" such as assisting in the investigation of a

crime or giving advice as to the existence of probable cause to make a warrantless arrest, he "loses his absolute protection," the judge added. Noting that the qualified immunity defense is available to shield liability in connection with performance of official functions which were "objectively reasonable," the judge said that the prosecutors' investigatory actions, as alleged, were not reasonable.



### **Professional Negligence Charges Filed Against Well-Known Psychiatrist**

Tyo v. Ash, et al and Colin Ross, District Court, Dallas Co., Texas, No. DV98-3843.<sup>[12]</sup>

Colin A. Ross, M.D. is being sued in Texas for allegedly planting and encouraging false memories of satanic abuse in a former patient. A 50-page Complaint filed in July 1998 by Martha Ann Tyo against four of her former therapists,<sup>[13]</sup> including Colin Ross, and against two Texas hospitals<sup>[14]</sup> alleges negligence, fraud, fraudulent concealment, and conspiracy to commit fraud. Defendants are charged with negligence in failing to carefully evaluate Ms. Tyo's symptoms or to properly treat her; in alienating Ms. Tyo from her family, her husband, and her children; in failing to advise her of the questionable nature of the therapeutic treatments utilized; and in reinforcing the emerging "memories" as true. All defendants are also charged with fraudulent conduct which sought to extract from Tyo and from her medical insurance carrier the maximum amount of money available under her insurance policy.

The Complaint states that Mrs. Tyo first sought treatment from defendant Kathleen Stanley for assistance with marital problems and depression. Using suggestive and hypnotic techniques, Stanley regressed Tyo to a childlike state to let the "inner child" speak and recall incidents of abuse. Stanley diagnosed bodily sensations as "body memories" of abuse and encouraged Tyo to read *The Courage to Heal*. Without any independent verification and without advising Tyo that the techniques being used were capable of causing false beliefs, Stanley allegedly affirmed to Tyo that her "memories" were true and that she would have to uncover and relive all her "memories" before her condition would improve.

Stanley later referred Tyo to another therapist, Stephen Ash, who is described in the Complaint as a "cult specialist." According to the Complaint, Ash evaluated Tyo using only a Rorschach test. Based on that test he concluded that she had MPD, which would require at least 7-10 years of therapy. Prior to this time, Tyo had never been diagnosed as having any type of dissociative disorder. The Complaint describes suggestive and coercive techniques, including hypnosis, that led Tyo to believe horrendous "memories" of sexual abuse, ritual murders, and torture by members of her

family. Ash, however, allegedly never attempted to independently verify the "repressed memories" and he never obtained any consultation regarding his diagnosis, despite the fact that Tyo's condition only worsened under his care. Ash explained to Tyo that her family was trying to draw her back into the cult, using "triggers" that included greeting cards displaying colored flowers. In an effort to "free" Tyo from the cult and rid her of her "demon personalities," Ash allegedly performed exorcisms.

At this time, according to the Complaint, Tyo became increasingly distraught, depressed, and suicidal as a result of the therapy she had received. She was hospitalized at Charter Hospital in Dallas but her physical condition continued to deteriorate; she had not eaten solid foods for about two weeks. While hospitalized, Tyo was introduced to Colin Ross, M.D., who was the head of the MPD Unit at Charter and Ash's supervisor. Tyo asked Ross for his help in determining whether or not she had MPD and expressed her concern regarding Ash's "exorcisms."

Tyo began treatment with Ross and a counselor named Mary Grundman in April 1992. The Complaint states that Grundman considered herself a "Christian counselor" who identified several of Tyo's alleged alters as God, the Archangel Michael and other angels who were working within the body to fight the forces of Satan. At one point Tyo calculated that over 200 alters or "fragment" alters had been identified. According to the Complaint, Ross and Grundman both worked to identify more alleged alters, as well as "fragment" alters. Some of the alters were allegedly operatives in the cult, others were allegedly the personalities that caused confusion and were the reason why Tyo never suspected she had MPD prior to this time.

Both Ross and Grundman allegedly conferred with the alters, even with the alleged Satanists. In fact, the Complaint states, these alters did not exist, and the false beliefs were the product of the coercion and suggestion resulting from the improper techniques employed by Ross and Grundman. According to the Complaint, Ross and Grundman used these techniques without advising Tyo that they were capable of causing false beliefs and memories of events which never occurred. Neither Ross nor Grundman consulted with Tyo about the fact that MPD and SRA were a subject of controversy within the therapeutic community. Further, Ross and Grundman never obtained any consultation regarding her diagnosis, despite the fact that Tyo's condition only worsened under their care. They constantly reinforced the validity of her "memories" of abuse at the hands of her family and the Satanic cult. Ross and Grundman told Tyo that since she had already left the cult once, she would most likely be sacrificed if she returned. Throughout her therapy with Grundman, Grundman attributed Tyo's denial of having been reprogrammed as due to "reprogramming."

Even when Tyo asked Ross to educate her on methods of discerning reality and how to live a normal life, Ross encouraged her to continue working on identifying and integrating alters. Ross remained a consultant regarding her progress in "integration" and continued to treat Tyo with medication until April 1997.

The Complaint also states that Ross led Tyo to believe she was a danger to her children, so that she thought she was acting in their best interest when she gave up all parental rights to her children. Prior to starting therapy with Stanley, Tyo and her husband were evaluated as part of adoption proceedings. At that time she was found to be an acceptable parent for the three young children she and her husband adopted.

Plaintiff is represented by Mark H. Iola of Dallas and R. Christopher Barden of Salt Lake City.

12 See FMSF Brief Bank #204.

13 Defendants include psychiatrist Kathleen Stanley, therapist Stephen Ash, Mary Grundman, L.P.C., and psychiatrist Colin Ross.

14 Also named as defendants are Charter Behavioral Health System of Dallas, and CPC Millwood Hospital.



## NEW MALPRACTICE FILINGS CLAIMING IMPLANTATION OF FALSE MEMORIES

The FMS Foundation is currently tracking 139 malpractice suits brought by former patients against their mental health care providers.<sup>[6]</sup> An examination of the filings and testimony in those cases provides evidence of the dangers professional organizations have repeatedly warned against. Improper use of techniques such as hypnosis may lead to the development of disturbing images or feelings. When coupled with a therapist's warnings that the images and feelings should be viewed as "memories," that working with the images is the way to eventual mental health, that one must "get worse before one can get better," and that only the therapist is able to provide support during that journey, the stage is set for serious damage to be done to the patient. Under these circumstances, no matter how horrendous the emerging "memories" or how far the patient's well-being careens off course, patients can become erroneously convinced that they are on the path to recovery. The filings and testimony from the malpractice suits show how essential it is that professional organizations act now to police their own professions. When vulnerable patients are injured by misguided or unscrupulous mental health professionals, the whole profession also suffers.

6 Currently, the FMSF knows of 11 malpractice suits that have gone to trial. Nine ended in a verdict in favor of the plaintiff against the defendant therapist. In 2 cases, the jury found in favor of the defendant therapist. In other cases, 2 suits have been dismissed, 2 were voluntarily dropped by the plaintiff, 56 have been settled out of court, and 67 are ongoing.

## Jury Rejects Malpractice in Repressed Memory Claim

Greene v. Charter Pines Hospital, Wallace, Timmons, et al., Superior Ct., Mecklenburg Co., NC, No. 96-CVS-5235.<sup>[15]</sup>

On August 19, a North Carolina jury rejected a woman's plea for a multimillion-dollar malpractice verdict against two therapists she accused of planting false sex-abuse memories in her mind. Susan Greene argued that psychologist Daphne Timmons and psychiatrist Scott Wallace used hypnosis, suggestive questioning and "truth serum" drugs to make her falsely believe she had been molested by her father and by satanic cult members.

The defense had argued that the therapists were just trying to help their patient. They also argued that even if the therapists had been using repressed-memory techniques on Greene, it wouldn't have been grounds for malpractice. They said that back in the early 1990s, when the defendants treated Greene, such methods weren't considered as controversial as they are today.

The trial, including jury selection and verdict, lasted seven weeks. Plaintiff's attorney Christopher Barden said he plans to appeal the verdict. "The mental health system will continue to be reformed by force of law in state after state regardless of what one jury in North Carolina rules," Barden said in a statement. "Virtually every other jury in every other state...has ruled that these so-called 'therapy' practices are not acceptable." Barden said the defense won the case because North Carolina has "unusual and stringent" rules on malpractice suits.

15 Report taken from Frazier, E., "Jurors believe therapists," *Charlotte Observer*, Aug. 20, 1998. See also FMSF Brief Bank #199 and FMSF Newsletter September 1998.



## UPDATES OF CASES WE HAVE BEEN FOLLOWING:

**Psychiatric Malpractice Claim against Richard Kluff, M.D.** Marietti v. Kluff, Dissociative Disorders Program and Institute of Pennsylvania Hospital, Ct. of Common Pleas, Phila. Co., Pennsylvania, No. 9509-02260.<sup>[16]</sup> A psychiatric malpractice suit against Richard Kluff, M.D. and the Institute of Pennsylvania Hospital was settled after two days of trial testimony. The amount of the settlement is confidential. The suit, brought by one of Richard Kluff's former patients, alleged that Kluff used suggestive and coercive techniques which caused Marietti to falsely believe that she was the victim of childhood sexual abuse by her father. Plaintiffs also allege that the Institute of Pennsylvania Hospital where Marietti was hospitalized failed to establish procedures to insure that patients were cared for in a skilled, competent fashion and to insure proper supervision.

16 See Brief Bank # 192 and FMSF Newsletters July and Sept. 1998.

**Amirault Case** *The New York Times* (9/8/98) reports

that Gerald Amirault hopes for a successful appeal of his 1986 conviction based on a recent Massachusetts ruling in his sister Cheryl Amirault LeFave's case. Gerald and Cheryl Amirault and their late mother were all convicted in 1986 and 1987 of raping young children at the family's day care center. In June, Cheryl was granted a new trial because of new scientific findings concerning an emerging consensus over how children should be interviewed to minimize false reports. In the last decade, researchers estimate, 500 studies have been conducted on children's "suggestibility" —the extent to which suggestions implanted by adult interviewers can influence children's recollections and accounts. *The New York Times* lists some of the recent findings regarding proper interview techniques and quotes from the 1997 American Academy of Child and Adolescent Psychiatry guidelines.

**Wenatchee Couple Allowed to Withdraw Plea,** September 15, 1998. A couple sent to prison in the Wenatchee child sex ring cases should be allowed to withdraw their pleas because of improper interview techniques by police and social workers, a Washington Appeals Court said. Harold and Idella Everett had asked that they be allowed to withdraw Alford<sup>17</sup> pleas made in 1994 because they contend they had been coerced into making the pleas that led to prison sentences for both. The Everetts also asked to withdraw their pleas because one of the girls they were accused of assaulting recanted her testimony. The appeals court agreed that the girl's recantation was believable, and that the recantation and other evidence "makes it more probable that a unanimous verdict will not be obtained if the charges against the Everett's go to trial."

The appeals court also rejected Chelan County's assertion that police detective Robert Perez and social workers were not required to follow recommended child interview techniques. "Based upon our common life experience, we know that type of conduct has the potential of eliciting inaccurate and untruthful responses."

17. An Alford plea is a plea bargain in which the accused does not admit guilt.



M A K E



D I F F E R E N C E

*When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle.*

Edmund Burke Vol. i. p. 526.

*Thoughts on the Cause of the Present Discontent*

**Illinois:** Do you feel you would like to do something to help with the problems of repressed memory therapy, but don't know what to do? Do you live too far away to participate in any group meetings or activities? Have you read any good books recently on recovered memory therapy or any of its implications? There is a way for you to make a difference.

We found a website on the internet (Amazon.com) where book reviews can be downloaded. We can use this to help spread information. Many great books such as Mark Pendergast's *Victims of Memory*, Tana Dineen's *Manufacturing Victims*, and Reinder van Til's *Lost Daughters* have yet to be reviewed on this website. Such books deserve attention. Other books that have done devastating damage such as *The Courage to Heal* need reviews from the perspective of their destructive impact on our families.

If you have read any of these or other outstanding literature on the issue of repressed memory therapy, please write a brief (200-500 words) book review focusing on the book's content and context. The best reviews include not only whether you liked or disliked the book, but why. Mention other books you consider similar and state how the book you are reviewing rates in comparison to them.

Those of you who have computer access can download such pieces directly to catalogdept@amazon.com. Those who are not computer literate can send reviews to E. Schmidt, 937 Brunswick Circle, Schaumburg, IL 60193 and she will submit them to the website for you. Please indicate your name and city and advise if you would prefer to use a "pen name."

**The Pen is Mightier than the Sword**

Send ideas to Katie Spanuella c/o FMSF

### Moral Relativism about FMS

"They [Bass and Davis in *Courage to Heal*] also claim that false memories of sexual abuse are uncommon: 'Even if all five thousand families who've contacted the FMS Foundation were indeed falsely accused, that amounts to only .01%—or one-hundredth of a percent of the estimated number of adult survivors of child abuse in this country.'"

"How can one accept or respect such reasoning? Five thousand real protesting families are compared to questionable estimates of the total number of abuses, whether or not they are reported. I am particularly disturbed by the ethical and moral relativism of the argument. If 5,000 people—or five people, or one—are unjustly accused, that is important. It cannot be factored in as an allowable margin of error. page 156

Elaine Showalter, *Hystories: Hysterical Epidemics and Modern Media*. Columbia U. Press, 1997

## Protesting a Conference

Katie Spanuello

VOICES in Action and the International Society for the Study of Dissociation (the MPD group founded by Dr. Bennett Braun in Chicago) were two sponsors of a conference in Evanston Illinois in July. The two-day conference advertised opening remarks by Illinois Attorney General Jim Ryan and a keynote speech and a workshop to be delivered by Ellen Bass (co-author of *The Courage to Heal*). Other talks focused on satanic ritual abuse.

The Illinois False Memory Society took action and wrote letters to the Attorney General, advising him of the agenda of the sponsoring groups and the keynote speaker. The letter was to educate Mr. Ryan about repressed memory therapy.

One mom, Mattie, thought she needed to do more, however. She had had enough! Singlehandedly she recruited others to picket the conference. Mattie wrote a letter explaining her position and took out her phone book. She compiled the names of local TV, radio and newspaper reporters and put together a press kit. After mailing the kits she waited a week and started her follow up calls.

The day of the conference about a dozen people picketed, including Nadean Cool from Wisconsin who had received a \$2.4 million settlement and was featured on "60 Minutes." One person handed out fact sheets about the problems of FMS to conference attendees and passers-by. The Attorney General opted to enter and leave the building through a back entrance so he didn't have to face the pickets.

A conference organizer came out with a camera and filmed the protesters for one hour. Some attendees ripped up the fact sheets, some shouted vile things. One conference organizer told the marchers to go home because they were upsetting people at the conference. "They are afraid of you," she said. That struck a chord...afraid of 60

and 70-year-old men and women quietly carrying a sign. Maybe they were afraid of the truth!

Two TV stations sent out reporters and camera crews who stayed for two hours. Stories appeared in two major newspapers and on one talk show.

The people who walked the line said they never thought they would ever do such a thing. Several said they felt *empowered* (pardon the word) by their participation in this exercise of free speech.

*Editor's Comment Regarding Protests: This comment is in response to a thoughtful letter from a reader concerned about the activities described in the "Make a Difference" column, September, 1998.*

*The FMS Foundation does not encourage picketing. If individuals, for whatever reason, decide this is something they should do, we report on such events as part of the ongoing documentation of the FMS phenomenon. We also try to understand what motivates people to take such action.*

*The "right to be wrong" is a precious right in our society. Freedom of speech is a right envied by many peoples, a right that needs constant protection. No one in our country has the right to stifle expression. We saw the disastrous effects of not respecting this right when Connie Kristiansen, Ph.D., professor of psychology at Carlton University led a protest at McGill University in 1993 and prevented FMSF Advisory Board member Harold Lief, M.D. from making a presentation. (See "Bearing Witness to the Patriarchal Revictimization of Survivors" SWAP Newsletter, 20(2), a Division of the Canadian Psychological Association for Kristiansen's description of this event.)*

*The FMS Foundation does not tolerate any activity that interferes with the right of free speech or that stifles expression.*



FROM OUR

READERS

## Thank You, Beth Rutherford

The Foundation support through the years has been most important. In the early daze, you helped us know we were not alone and that this was not just a personal thing, but rather an epidemic affecting countless young adults and their families. It was also crucial during the journey to try to understand not only what had happened, but how to relate to it.

Finally, a letter in a recent newsletter from Beth Rutherford who had made the journey back came to us as a blueprint for how to reach out. She openly related what actions and words from her parents had enabled a return and which behaviors would have driven her away. Her "blueprint" enabled us to write words that were welcomed and it guided us in our first meeting together.

Our reflections at this point include the following: To honor those who have fallen into false memories starts with knowing what happened to them has been at least as painful to them as to their families. It's as if they had received a blow to the head and can not remember key elements of their lives. Anger and punishment only add to the confusion and separation; love and reconciliation are fueled by understanding and concern for the other's well-being. For this reason we prefer the term, "return" to "retract."

A Mom and Dad

## Memories Return

I reported to your family survey update in 1997 that my daughter had returned in 1993 but not retracted. We had never discussed the past and this allowed a resumption of contact which led to us making a wedding for my daughter in 1994. We live in different cities and had visited and slept in each others' homes on a few occasions.



In December 1996 my daughter had a baby girl and we visited several times. Last week we were informed that this arrangement no longer worked. Because of the past "memories," I could no longer sleep in the same home or pick up the baby since she had to be protected. I could still visit if I wished. My wife had no restrictions placed on her.

Needless to say, we are very upset. I feel that no further progress is possible until direct discussion takes place with my daughter. This has never occurred.



A Dad

### What Chutzpah!

Once the concept of supernaturalism is accepted, there are no boundaries. Mysticism and magic are the necessary corollaries of supernaturalism. It is very disconcerting that so many people shun science for the nostrum of magic. Because 90 percent of the population believes in the supernatural, "therapeutic touch" would hardly raise an eyebrow for many. These unfortunate people are putting themselves at risk. Because managed health care providers pay for this form of magic, they give these people a false sense of security. Managed care providers would shout with joy if all of their insureds would accept "therapeutic touch;" after all, how many pennies worth of energy can these "healers" bill to insurers? Perhaps, "psychic surgery" will be offered as an alternative medical procedure.

Emily Rosa, a fourth grader who has a good sense of reality, knew that therapeutic touch was based on magic: As a science project in which she and one of several healers were separated by a screen, Emily used a coin flip to determine whether to put her hand over the healer's left or right hand. The healers were then asked to say whether they felt energy over their left or right hand. The subjects picked the

correct hand only 44% of the time, worse than guessing.

I don't think that I could have set up the experiment Emily did as a fourth grader, but I too have an inherent and innate sense of reality. I use myself as a standard. I don't believe for a minute that the evolutionary process made some humans more advanced with special magical and mystical powers than I have. They may "think" they have, but that is self-deception. I wonder if these good people took this "healing" concept from the Bible, and if in their minds that authenticates this procedure? It seems the lines separating "faith healers" and some other practitioners are blurred. I think they are under the delusion that they are identifying with and imitating Jesus, who allegedly healed with the laying of hands. What chutzpah!

Newton Joseph, Ph.D.



### Informed Consent Laws

*How do I choose a therapist? How can I tell how risky a therapy is? Whom do I call if a therapist starts telling me that I had been sexually abused as a child when I didn't know it until he or she told me?*

These are the kind of questions I have been asked by hundreds of people in the last decade. Since 1986, I have been representing victims of false memories, and one of my last cases involved the Rutherford family of Springfield, MO.

We're still in the midst of a mental health literacy crisis. Americans suffer more depression than ever before and most of them don't understand that therapy-induced hypnosis is dangerous overkill. I feel strongly that there should be an "informed consent" law in every state that forces every therapist who uses any form of hypnosis to tell the patient/client the risks, including that the risk of ending up believing you were sexually abused as a child

when you were not.

Today only Indiana has an informed consent law and that legislation does not include the warning I recommend.

Sid Willins  
Attorney



### Thank you, Dr. Herbert Spiegel

I am a social worker whose daughter five years ago claimed recovered memories of sexual molestation by her father starting before the age of five. I have established limited contact with her, but she refuses to communicate with anyone in our family (father, one brother and extended relatives).

Our daughter has stated that she does not refute the work of the FMS Foundation or the claim that therapists can implant memories. However, she defends her therapy saying that her recovered memories were present before she was hospitalized for an attempted suicide and that she was never hypnotized. MPD was her diagnosis. Interestingly, she did not isolate herself from her family prior to her hospitalization—only afterward.

Although the emphasis of the Foundation appears to be recovered false memories via the therapeutic process, it appears that recent information suggests that false memories can also be recovered via "contagion" or implantation by other means — i.e. books, friends, educators, movies, etc.

In the recent article, "Sybil - The Making of a Disease: An Interview with Dr. Herbert Spiegel" by Mikkel Borch-Jacobsen (*NY Review of Books*, April 24, 1997), Dr. Spiegel notes that "most of the patients that the MPD experts have in the wards are not highly hypnotizable, so what they are actually playing around with are borderlines and psychopaths who enter into the game for different reasons." My opinion, early on, was that my daughter should have been diagnosed as having Borderline Personality Disorder. This article has confirmed



my original belief.

Thank you, Dr. Herbert Spiegel, for your comments and thank you FMSF for continuing to inform us of the latest research in this tragic fad that will eventually play itself out but leave so many devastated in its wake.

A Mom, MSW

*Editor's comment:* Many people are unaware that techniques such as guided imagery, relaxation, dream analysis and regression work seem to tap the same mechanisms as hypnosis. See "The False Memory Syndrome (FMS) and "Disguised" Hypnosis" by Campbell Perry (*Hypnos* XXII (4), 1995).



### Apologize and Retract First

As a non-accusing sibling, I wish to be added to the list of those who say "She must apologize and retract first." I have come to the resolution that my sister would have to apologize, retract, and demonstrate by her behavior that she has been re-socialized before she could have any place in my life. The RMT process de-socialized my sister, leaving her with an interpersonal relationship style that is vicious, cruel, selfish, and destructive in intent.

She's been gone for 10 years. During that time, a niece and nephew have been born to other siblings in my family. I cannot imagine my sister having unsupervised contact with these children until she has completed the above steps. I also have two wonderful, caring sisters-in-law whom I would not want subjected to my sister's abusive tirades or character assassinations.

A Sister



### Apples's Law of Recovery Movements -

You can't recover from a problem  
you don't have.

### Apologies Later

I am a retractor. I like that term much better than "recanter," which sounds as though I lied with malicious intent. Of the many people I met with 'repressed memories,' very few, if any, seemed malicious in their intent. In fact, most seemed rather pitiful, broken down and terrified. Regardless of intent, we believed our memories. They were not lies, but facts as clear as this paper.

I admitted myself into Del Amo Hospital in Torrance, CA in August of 1990. There were four children out of seven who recovered memories. The memories did not stand just on their own. For all of us, they were accompanied by horrific nightmares. Dreams, as we are taught, are the gateway to the subconscious; not just any dreams, but the kind of dreams that cause a grown man to cry out at the top of his lungs while trying to climb up the wall at the head of his bed. I cannot begin to describe the terror incorporated in these dreams. It was not so much the pictures in them, gruesome as they tended to be, but more the presence of true evil that chills a man to the bone. These dreams along with the sodium amytal and hypnosis sessions only reinforced the memories.

As a side note, it is rather a strange thing to hear a tape of an amytal session. It is most discomforting to hear your own voice graphically describing how you dismembered a child. Fantasy or reality, it is unnerving.

I was in the hospital for eighteen months; eighteen months in a make-believe world of "feelings" and therapy. What a wreck I was. Subsequently, I returned to my family, although it would take years to return fully. That was February 1992. The other three have since cut off communication with me as I am now among the 'enemy.' It has been five years since my last therapy session and as recently as last night I had a dream that caused me to

cry out in terror.

Know this, accused parents: whatever you are suffering, your children are suffering ten times as much. You will only get them back through love, persistence and open arms. If you are fortunate enough to get your children back, treat them as you would any other terrified child, not as the perpetrator of your pain. Apologies come later!

Michael



### Exploring the Internet

A new web site of interest to FMSF  
Newsletter readers:

<http://www.StopBadTherapy.com/>

### ADDRESS CHANGE and SNOWBIRD ALERT!

PLEASE REMEMBER,  
WE NEED YOUR ADDRESS  
CHANGE EVERY TIME YOU MOVE.

THANK YOU FOR HELPING US TO  
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AREA CODE CHANGE?  
PLEASE HELP US SAVE TIME  
TRYING TO CALL YOU!

IF YOUR AREA CODE HAS  
CHANGED, PLEASE LET US  
KNOW.

### ESTATE PLANNING

If you have questions about how to include the FMSF in your estate planning, contact Charles Caviness 800-289-9060. (Available 9:00 AM to 5:00 PM Pacific time.)

## **\*STATE MEETINGS / NOTICES\***

*Call persons listed for info & registration*

### **MICHIGAN, OHIO, ILLINOIS, INDIANA, WISCONSIN, NORTHWESTERN WEST VIRGINIA AND WESTERN PENNSYLVANIA**

#### **"WE CAN MAKE A DIFFERENCE" Stopping the Plague of False Memories**

**Saturday, October 3, 1998 Ramada Inn, Toledo, Ohio**

#### **Speakers:**

Pamela Freyd, Ph.D.	Chris Koronakos, Ph.D.
Eleanor Goldstein	Paul Simpson, Ed.D.
Sharla Kimmel	Nicole Bishop

For more information call:

Kalamazoo:	Chris	(616) 349-8978
Columbus:	Carol	(440) 888-7963
Ann Arbor:	Martha	(734) 439-4055
	or	(734) 439-8119

### **SOUTHERN CALIFORNIA**

#### **"RECONNECTION: BUILDING A BRIDGE"**

**Saturday, November 7, 1998 9 a.m. - 4 p.m.**

**The CENTRE at Sycamore Plaza**

**5000 Clark Ave. Lakewood, CA (North of Long Beach)**

**Speakers:** Pamela Freyd, Ph.D. Eleanor Goldstein  
Paul Simpson, Ed.D.

For more information call

Cecilia: (310) 545-6064 Carole: (805) 967-8058

**Skeptical Society Meeting: Sunday, November 8, 1988 2 p.m.**

**Baxter Lecture Hall, California Institute of Technology  
Pasadena, CA**

**Speakers:** Pamela Freyd, Ph.D. Eleanor Goldstein  
For more information call (626) 794-3119

### **ILLINOIS**

#### **FALL MEETING**

**Sunday, October 18, 1998**

**DoubleTree Hotel, Glenview**

**1400 Milwaukee Ave. Chicago, Illinois 60025-1400**

**Keynote Speaker: Pamela Freyd, Ph.D.**

**For more information, call 847-803-9800**

Conference of interest to FMSF Newsletter subscribers:

#### **"ALLEGATIONS OF CHILD ABUSE: THE LAW, THE SCIENCE, THE MYTHS, THE REALITY"**

**Presented by The National Child Abuse Defense  
and Resource Center**

**Kimberly A. Hart, Executive Director**

**October 22 - 24, 1998 Las Vegas, Nevada**

**Speakers include:**

Terence Campbell, Ph.D.	Richard Ofshe, Ph.D.
Elizabeth Loftus, Ph.D.	Barry Scheck, J.D.

**For Hotel Reservations Alexis Park Resort & Spa call:**

**(800) 453-8000 or (702) 796-3392 by September 23<sup>rd</sup>**

**After September 23<sup>rd</sup> or for more info. call:**

**NCADRC - Todd James: (419) 865-0513**

**<http://www.fmsfonline.org>**

is the address of the website that FMSF is developing. (The site currently has background information on the U.S.A. v Peterson trial in Houston, Texas.)

### **CONFERENCE AUDIO TAPES**

A few sets of audiotapes are still available from the recovered memories conference held in New Haven, CT on November 14, 1997.

Speakers and topics include:

**Mark Pendergrast:** An Historical, scientific look at the recovered memories controversy.

**Pamela Freyd:** A history of the formation and accomplishments of the False Memory Syndrome Foundation.

**Anita Lipton:** Overview of the case law and statutory developments relating to recovered memories.

**Jerome L. Singer:** What do we know about repression and dissociation?

**Jonathan Schooler:** The scientific evidence for recovered memories.

**D. Stephen Lindsay:** Understanding recovered memory experiences.

**David Sakheim:** Complexities of recovered memories of trauma: a clinician's view.

If you would like a set of the tapes, please send a check for \$40 to:

**Professor Sheila Taub, Quinnipiac College School of Law, 275 Mt. Carmel Ave., Hamden, CT 06518**

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## ALASKA

Kathleen (907) 337-7821

## ARIZONA

Barbara (602) 924-0975;  
854-0404 (fax)

## ARKANSAS

## Little Rock

Al &amp; Lela (870) 363-4368

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Gideon (415) 389-0254 or  
Charles 984-6626(am); 435-9618(pm)

## East Bay Area - (bi-MO)

Judy (510) 376-8221

## South Bay Area - Last Sat. (bi-MO)

Jack & Pat (408) 425-1430  
3rd Sat. (bi-MO) @10am

## Central Coast

Carole (805) 967-8058

## Central Orange County - 1st Fri. (MO) @ 7pm

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## Covina Area - 1st Mon. (MO) @7:30pm

Floyd &amp; Libby (626) 330-2321

## San Diego Area

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## Colorado Springs

Doris (719) 488-9738

## CONNECTICUT

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Earl (203) 329-8365 or  
Paul (203) 458-9173

## FLORIDA

## Dade/Broward

Madeline (954) 966-4FMS

## Boca/Delray - 2nd &amp; 4th Thurs (MO) @1pm

Helen (407) 498-8684

## Central Florida - Please call for mtg. time

John &amp; Nancy (352) 750-5446

## Tampa Bay Area

Bob &amp; Janet (813) 856-7091

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Eileen (847) 985-7693

Liz &amp; Roger (847) 827-1056

## Peoria

Bryant &amp; Lynn (309) 674-2767

## Champaign

David (217) 359-2190

## INDIANA

## Indiana Assn. for Responsible Mental Health Practices

Nickie (317) 471-0922; fax (317) 334-9839  
Pat (219) 482-2847

## IOWA

## Des Moines - 2nd Sat. (MO) @11:30am Lunch

Betty &amp; Gayle (515) 270-6976

## KANSAS

## Kansas City - 2nd Sun. (MO)

Pat (785) 738-4840

Jan (816) 931-1340

## KENTUCKY

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Carolyn (207) 364-8891

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Jan (816) 931-1340

## St. Louis Area - 3rd Sun. (MO)

Karen (314) 432-8789

Mae (314) 837-1976

## Springfield - 4th Sat. (MO) @12:30pm

Tom (417) 883-8617

Roxie (417) 781-2058

## MONTANA

Lee &amp; Avone (406) 443-3189

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Sy (505) 758-0726

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Jim &amp; Jo (610) 783-0396

## TENNESSEE

## Wed. (MO) @1pm

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Jo or Beverly (713) 464-8970

## El Paso

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@1- 4pm

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@7:30pm

John (250) 721-3219

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Adriaan (519) 471-6338

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## SWEDEN

Ake Moller FAX (48) 431-217-90

## UNITED KINGDOM

## The British False Memory Society

Roger Scofield (44) 1225 868-682

(5) - see the State Meetings list  
page 17  
Deadline for the November Newsletter  
is Oct. 15 Meeting notices MUST be in  
writing and should be sent no later  
than two months prior to meeting.

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October 1, 1998

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If you wish to receive electronic versions of this newsletter and notices of radio and television broadcasts about FMS. All the message need say is "add to the FMS list". You'll also learn about joining the FMS-Research list: it distributes research materials such as news stories, court decisions and research articles. It would be useful, but not necessary, if you add your full name: all addresses and names will remain strictly confidential.

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FALSE MEMORY SYNDROME

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